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IN RE:

Case No. 15-60651

THOMAS W. RIDINGS,

Debtor.

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**STIPULATION RESOLVING DEBTOR'S OBJECTION TO  
CIT BANK, N.A.'S PROOF OF CLAIM AND FOR CONSENSUAL PLAN  
TREATMENT**

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The Chapter 13 debtor Thomas W. Ridings ("Debtor"), the creditor CIT Bank, N.A. (formerly known as OneWest Bank N.A.) (herein "CIT Bank"), and the chapter 13 Trustee, (the "Trustee") by and through their respective attorneys, stipulate and agree to the following:

1. CIT Bank filed a proof of claim on October 7, 2015, in the amount of \$476,264.06, for the loan secured by Debtor's real property at 710 Martini Lane, Columbia Falls, MT (the "Property") as recited in Proof of Claim No. 4 (the "Claim") filed on the claims register.

2. Debtor filed an objection to the Claim on October 30, 2015 (the “Objection”). As a result of the Objection, CIT Bank and Debtor compromised and agreed that the pre-petition arrearages to be paid through the Debtor's chapter 13 plan (the “Plan”) shall be \$91,146.67, and as of May, 2016, that the post-petition arrearages are \$17,315.95.<sup>1</sup> CIT Bank will file a notice with the Court of its existing post-petition arrearage amount due (the “Post-Petition Arrearage Notice”) within 3 days of entry of any order confirming the Plan.

3. As a result of the compromise, CIT Bank hereby amends its Claim (the “Amended Claim”) as follows:

1	Principal as of Petition Date	\$289,638.09
2	Interest as of Petition Date	\$24,723.82
3	Total Pre-Petition Principal & Interest	\$314,361.91
4	Total Fees, Expenses and Charges as of Petition Date	\$11,582.50
5	Total of all Past Due Payments as of Petition Date	\$79,564.17
6	Total Fees, Expenses and Charges along with all Past Due Payments as of Petition Date	\$91,146.67

4. The filing of this Stipulation shall obviate the necessity of filing an Amended Proof of Claim on the claims register, and this Stipulation and the entered Order on Stipulation shall constitute the amended claim for CIT Bank's Amended Claim.

5. Along with CIT Bank's Amended Claim, the Trustee shall pay the Post-Petition Arrearages of \$17,315.95, or any increased post-petition arrearage

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<sup>1</sup> 7 payments @ \$1,730.80 and 3 payments @ \$1,733.45.

amount as may become due, immediately following the filing of the Post-Petition Arrearage Notice.

6. For Plan purposes, CIT Bank's Amended Claim shall be allowed as an Unimpaired Secured Claim and CIT Bank shall retain its secured lien as provided by 11 U.S.C. § 1325(a)(5)(B). As a result, Debtor shall be responsible for making the next regular loan payment due to CIT Bank following entry of the Order confirming the Plan.

7. On April 26, 2016, the Trustee filed a motion for approval of a settlement, which would result in gross proceeds payable to the Estate of \$38,500 (the "Settlement Proceeds"). No objections were filed to the motion. The Court entered an order approving the settlement on May 16, 2016.

8. In the Debtor's plan, the Settlement Proceeds are to be turned over to the Estate. The Trustee is currently in possession of the Settlement Proceeds on behalf of the Estate. In addition to the Settlement proceeds, the Estate has the total of \$11,643.68 currently available for distribution (the "Available Funds") (collectively the Settlement Funds and Available Funds are referred to as the "Funds").

9. Based on the information available to date, it is estimated that the Funds will be administered in part as follows:

Settlement Amount	\$38,500.00
(-) Less Trustee Fee	\$3,850.00

<i>Balance</i>	<i>\$34,650.00</i>
(-) Less Estate's Attorney's Contingency Fee	\$14,437.50
<i>Balance</i>	<i>\$20,212.50</i>
(+) Add Available Funds	\$11,643.68
<i>Balance</i>	<i>\$31,856.18</i>
(-) Debtor's Attorney's Fees (if approved)	\$13,552.00
<i>Balance</i>	<i>\$18,304.18</i>

10. Following payment of the fees identified above and any unanticipated administrative claims or expenses, approximately \$18,304.18 in Funds will be available for immediate distribution following confirmation and will be distributed by the Trustee to CIT Bank for application to the Post-Petition Arrearages.

11. The Pre-Petition Arrearages of \$91,146.67, shall be paid through the Trustee on a *pro-rata* basis over a 60 month period as provided for in the confirmed Plan, until they have been paid in full. The Plan provides for payments to be made to the Trustee as follows:

- (a) Payments of \$1,700.00 per month for 12 months;
- (b) Payments of \$1,850.00 per month for 48 months;
- (c) And, all net proceeds from the sale of real property identified as 5 Martha Road #4, Columbia Falls, MT 59912 ; and, 6030 Warclub Dr., Crossville, Tennessee 38555 (the "Liquidated Properties"), within 12 months of confirmation; and,
- (d) If Debtor fails to cause the Liquidated Properties to be sold within 12 months of the date of any Order confirming his Plan,

the Trustee shall have the exclusive power and authority to sell the Liquidated Properties and, distribute the net proceeds from the sale consistent with the Plan.

12. Beginning on the date the Plan is confirmed, interest shall accrue on the amount owed under the Amended Claim at the variable rate under the Note, as amended, and attached to the Claim.

13. Nothing contained herein or within the Plan shall be considered to modify, delete, change, inhibit, terminate, extend, amend or restructure any term, condition or covenant to which the Debtor is obligated under the existing CIT Bank loan documents that are the basis of the Amended Claim except as to, payment dates, monthly payment amounts and payment terms specifically changed herein. The Debtor hereby ratifies and confirms all terms and conditions of such loan documents, as herein modified and acknowledge that they have no defense to the enforcement of CIT Bank's rights and remedies thereunder.

14. If Debtor defaults under this Stipulation by failing to make any payment required under this Stipulation, or any regular monthly payment to CIT Bank consistent with its Amended Claim's Unimpaired Secured treatment, or otherwise defaults under the loan documents that are the basis of the Amended Claim, CIT Bank shall give Debtor written notice of such default and allow Debtor 15 calendar days to cure such default by making the required payment.

15. If Debtor fails to timely cure such default following the 15-day notice period, CIT Bank shall be entitled to file an affidavit of default with the Court, and then be entitled to automatic relief from stay with waiver of the 14-day stay under Federal Rule of Bankruptcy Procedure ("FRBP") 4001(a)(3), and pursue any remedy available to it under non-bankruptcy law without further notice or proceeding.

16. During the course of repayment, if Debtor fails to timely make a required payment on any three occasions, immediately following a fourth failure to timely make the payment, CIT Bank shall be entitled, without having to provide any 15-day notice and opportunity to cure, to file an affidavit of default with the Court and shall be entitled to automatic relief from stay with waiver of the 14-day stay under FRBP 4001(a)(3), and pursue any remedy available to it under non-bankruptcy law without further notice or proceeding, irrespective of whether or not Debtor later cures such default.

17. Following Court approval of this Stipulation, the treatment of CIT Bank's Amended Claim under the Plan, shall be deemed incorporated into the Plan or any subsequent plan proposed by the Debtor and confirmed by the Court. In the event of any discrepancy between the Plan, or any proposed plan by Debtor, and this Stipulation, the terms of this Stipulation shall control.

18. Debtor, the Trustee, and CIT Bank respectfully submit this Stipulation for the Court's consideration, along with a proposed order approving the Stipulation.

Dated this 24th of May, 2016.

CROWLEY FLECK PLLP

/s/ Benjamin P. Hursh

Crowley Fleck PLLP

*Attorneys for CIT Bank, N.A. (formerly known as OneWest Bank N.A.)*

Dated this 24th of May, 2016.

LUNDBERG LAW OFFICE PLLC

/s/ Jessie Lundberg

*Attorneys for Debtor*

Dated this 24th of May, 2016.

/s/ Robert G. Drummond

*Chapter 13 Trustee*

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies under penalty of perjury that on May 24 2016, a copy of the foregoing pleading was served (i) by electronic means, pursuant to LBR 7005-1, 9013-1(c) and 9036-1 on the parties noted in the Court's ECF transmission facilities and/or (ii) by mail to the following parties: None.

By /s/ Benjamin P. Hursh  
BENJAMIN P. HURSH  
*Attorneys for CIT Bank, N.A. (formerly  
known as OneWest Bank, N.A.*